THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 8063 of 2003

Order:

The petitioner was appointed as daily wage conductor in Karimnagar Region on 02.03.1987, and after formation of Adilabad Division on 01.11.1987 he was transferred to the 2nd respondent-APSRTC. After completion of 240 days of continuous service, on the representation made by the petitioner, the 2nd respondent-APSRTC issued orders regularizing the services of the petitioner with effect from 01.07.1988 instead of regularizing his services with effect from the date of his initial appointment after completion of 240 days of service or with effect from 01.11.1987. Aggrieved by the said orders, the petitioner raised an industrial dispute in I.D. No. 12 of 2002, and the Labour Court, by its order, dated 08.08.2002, dismissed the same. Hence, he filed the present writ petition.

The learned counsel for the petitioner submitted that the petitioner is entitled to be regularized in service from the date of his initial appointment upon completion of 240 days on par with other similarly situated persons, but the Labour Court committed an error in denying the said relief, and in support of such an argument, he placed reliance on the judgment of the apex Court in **Divisional Manager, A.P.SRTC v. P. Lakshmoji Rao**[1].

On the other hand, the learned Standing Counsel appearing on behalf of the respondents submitted that the petitioner was initially appointed as Conductor in Karimnagar, and on his request upon formation of Adilabad Division, he was transferred to Adilabad, and no services of the daily wage Conductors, junior to the petitioner working

in Adilabad Division, have been regularized. The services of 118 employees, including that of the petitioner, were regularized w.e.f. the date of their engagement in Adilabad Division. The petitioner being a Conductor, working in Adilabad Division, is entitled to seek regularization based on the seniority in Adilabad Division, and he cannot seek that his services should be regularized from the date of his initial appointment in Karimnagar Division, and no exception can be taken to the award passed by the Labour Court refusing to grant the relief prayed for by the petitioner.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the 2nd respondent-APSRTC.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India, to issue a writ of certiorari are very limited. In **Surya Dev Rai v. Ram Chander Rai**[2], the apex Court held as follows:

> Certiorari, under Art. 226 of the Constitution, is issued for correcting gross errors of jurisdiction, i.e., when a subordinate Court is found to have acted (i) without jurisdiction - by assuming jurisdiction where there exists none, or (ii) in excess of its jurisdiction by overstepping or crossing the limits of jurisdiction, or (iii) acting in flagrant disregard of law or the rules of procedure or acting in violation of principles of natural justice where there is no procedure specified, and thereby occasioning failure of justice.

Within the parameters, as laid down by the apex Court, in the above judgment, the impugned award of the Labour Court has to be judged.

The petitioner was appointed as daily wage Conductor on 02.03.1987 in Karimnagar Region. After formation of Adilabad Division on 01.11.1987, on his option, he was transferred to Adilabad Division. The petitioner contends he is entitled to regularization of his services from the date of his initial appointment i.e. from 02.03.1987. Since Karimnagar and Adilabad are treated as separate units, and

having regard to the fact that the petitioner opted Adilabad Division, the services of the petitioner were regularized based on the seniority list maintained in Adilabad Division. A perusal of the office order dated 13.10.1988, which is marked as Ex. A4, produced by the respondents, and as is evident from the award passed by the Labour Court, would disclose that the services of about 118 Conductors, including the services of the petitioner, who stands at Sl. No. 27 in the order, were regularized w.e.f. 01.07.1988, irrespective of their date of engagement into service. The fact that petitioner is placed at Sl. No.27 in the order shows that he is junior to about 26 persons and senior to the other persons behind him. No services of the person, who is junior to the petitioner in Adilabad Division, has been regularized much before the date of his regularization or from the date of completion of 240 days. May be the services of daily wage conductors appointed along with the petitioner in Karimnagar Division might have been regularized in 1987, but such regularization will have no effect on the daily wage conductors working in Adilabad Division, and more so when the petitioner is said to have opted Adilabad Division.

Further, there is no rule or regulation to the effect that the services of a daily wage conductor should be regularized with effect from the date of his initial appointment after completion of 240 days of service. In fact, in the judgment in **Divisional Manager, A.P. SRTC v. P. Lakshmoji Rao**, upon which the learned counsel for the petitioner placed reliance, the apex Court held that no service rule or regulation or any other principle of law has been pressed into service by the respondents (employees) to claim regularization from the date of their initial appointment, and that the respondents (employees) failed to establish their legal right to get the status of regular employees right from the date of their initial appointment on daily wage basis.

However, having regard to the fact that the appellant (APSRTC) had allowed some of the orders passed by the Courts to attain finality, the apex Court in order to avoid the anomalies that might otherwise ensue, directed that if any of the Conductors, junior to the respondents in the relevant seniority list of the concerned Division/Region, have got the benefit of seniority and regularization or are entitled to get the same by virtue of the judgments that have become final, then the respondents who are seniors to them, shall be given the same benefit on the same principle. But that is not the case on hand. None of the services of the employees, who are junior to the petitioner have been regularized prior to the date of regularization of the services of the petitioner. Therefore, no exception can be taken to the award passed by the Labour Court refusing to regularize the services of the petitioner with effect from the date of his initial appointment after completion of 240 days of service or with effect from 01.11.1987, when he joined in Adilabad Region.

I find no infirmity or perversity in the award passed by the Labour Court, warranting interference by this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 30th November, 2006
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[1] (2004) 2 SCC 433

[2] AIR 2003 SC 3044=2003AIR SCW3872